(1)

Supreme Court, U.S.
FILED

941092 DEC 12 1994

OFFICE OF THE CLERK

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1994

SHONG-CHING TONG, YEI-HWEI TONG,
Petitioners

v.

ROCHELLE D. STANTON,
Respondent

PETITION FOR WRIT OF CERTIORARI
TO THE CALIFORNIA COURT OF APPEAL
SECOND APPELLATE DISTRICT
DIVISION 5

PETITION FOR WRIT OF CERTIORARI

Shong-Ching Tong
Yei-Hwei Tong
1741 Phillips Dr.
Pomona, CA 91766
(909) 622-6884

Petitioners Pro Se

38 pp

QUESTIONS PRESENTED

1. Whether the orders in case no. B077109 issued by Justice Paul Turner acting alone violated the Constitution of the State of California, Article VI, Section 3.

2. Whether the orders in case no. B077109 issued by Justice Paul Turner acting alone violated Constitutions of the United States and the State of California re Due Process of Law.

3. Whether An "Appeal" is a new Litigation.

4. Whether the Presiding Justice of Division 5 of California Court of Appeal, Second Appellate District, alone has the power to dismiss Petitioner Shong-Ching Tong's appeal.

5. Whether the Presiding Justice of Division 5 of California Court of Appeal, Second Appellate District abused his

judicial power by ignoring Petitioners' application for permission to extend time to file the Appellants' Opening Brief.

6. Whether the Presiding Justice of Division 5 of California Court of Appeal, Second Appellate District, abused his judicial power to deny Petitioners' recusal motions.

7. Whether the Presiding Justice of Division 5 of California Court of Appeal, Second Appellate District, abused his judicial power to deny Petitioners' request to ask the California Supreme Court to transfer the appeal to another division or another district.

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PETITION FOR WRIT OF CERTIORARI

Petitioners Shong-Ching Tong and Yei-Hwei Tong pray that a Writ of Certiorari issue to review the orders, issued by Justice Paul Turner of the California Court of Appeal, Second Appellate District, Division 5, acting alone, filed in the above-entitled case on July 19, 1994. Said orders were affirmed by the California Supreme Court when it denied a "Petition for Review" on September 14, 1994.

PARTIES TO THE PROCEEDINGS

The parties to these proceedings are the parties shown in the caption of this case, Shong-Ching Tong and Yei-Hwei Tong and Rochelle D. Stanton.

OPINIONS BELOW

The California Court of Appeal, Second Appellate District, Division 5, effectively affirmed the ruling of the trial court as to Petitioner Shong-Ching Tong by

dismissing Petitioner Shong-Ching Tong's Appeal on orders issued by Justice Paul Turner, acting alone (Appendix A).

The California Supreme Court denied a Petition for Review (Appendix B).

The trial court's ruling sustained respondent's demurrer to petitioners' complaint without leave to amend, but did not give its reason for the ruling, as required by California Law (CCP Section 472d).

JURISDICTION

The California Supreme Court denied the Petition for Review on September 14, 1994. The Petitioners invoke this certiorari jurisdiction under 28 U. S. C. Section 1257(3). Petitioners argued below that the trial court's ruling and the orders issued by Justice Turner acting alone would violate their rights under both the California and the United States Constitutions and the well-established law of the State of California.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U. S. CONSTITUTION, Amendments I, V, and XIV, Sec. 1:

Amendments I, V, and XIV to the Unit-ed States Constitution, as set forth in Appendix G.

The Constitution of the State of California, Article I, Sections 3 and 7, and Article VI, Section 3, as set forth in Appendix G.

STATEMENT OF THE CASE

This is a petition for review of Orders of Presiding Justice Paul Turner acting alone, of Division 5 of California Court of Appeal, Second Appellate District (Appendix A).

On June 2, 1994, Petitioners filed the "Application for Permission to extend time for filing the Appellants' Opening Brief, etc." with the Clerk's Office of California

Court of Appeal, Second Appellate District.

On or about June 18, 1994, Petitioners received Orders from Justice Turner directing Petitioners to show that the present litigation has merit; and, staying all proceedings (Appendix C).

On June 27, 1994, Petitioners filed the following documents with the Clerk's Office of California Court of Appeal, Second Appellate District:

1. Appellants' Request that this court should ask the California Supreme Court to transfer the appeal to another District or another Division; Memorandum of Points and Authorities and Declaration of Shong-Ching Tong in support thereof;

2. Request to Recuse Justices Paul Turner and Ramona Godoy Perez; Memorandum of points and authorities and Declaration of Shong-Ching Tong in support thereof;

3. Request to Recuse Justice Paul Turner; Memorandum of points and authorities and Declaration of Yei-Hwei Tong in support thereof;

4. Appellant Shong-Ching Tong's Response to court's Order to show the present litigation has merit; and

5. Appellant Yei-Hwei Tong's Response to court's Order to show the present litigation has merit.

On or about July 21, 1994, Petitioners received Orders from Justice Turner acting alone and Notices from the Clerk's Office of California Court of Appeal, Second Appellant District (Appendix A).

On or about July 29, 1994, Petitioners filed a "Petition for Review" with the California Supreme Court for a review of Orders issued by Justice Turner acting alone of Division 5 of California Court of Appeal, Second Appellate District.

On September 14, 1994, Petitioners' "Petition for Review" was denied by the California Supreme Court.

Because the orders issued by Justice Paul Turner acting alone were in violation of Constitutions of the United States and the State of California, Petitioners seek relief from the United States Supreme Court.

GROUND FOR INVOKING THE JURISDICTION OF THIS COURT

(i) Dated of Entry of the judgment or decree sought to be reviewed:

September 14, 1994.

(ii) Date of any order respecting a re-hearing, and the date and terms of any order granting an extension of time within which to file the petition for a Writ of Certiorari:

None.

(iii) Express reliance upon United States Supreme Court Rule 12.3 when a Cross-Petition for a Writ of Certiorari is filed under that Rule and the date of receipt of the petittion for a writ of certiorari in connection with which the cross-petition is filed:

Not applicable.

(iv) The statutory provision believed to confer on this court jurisdiction to review the judgment or decree in question by writ of certiorari:

Title 28 United States Code, Section 1257.

THE CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE

Constitution of the United States, Amendments I, V, and XIV, Section 1.

Constitution of the State of California, Article I, Sections 3 and 7, Article VI, Section 3.

REVIEW OF JUDGMENT OF A STATE COURT

Please see above and Appendix A.

REVIEW OF A JUDGMENT OF A UNITED STATES COURT OF APPEALS

Not applicable.

REASONS FOR ISSUING THE WRIT:

I. THE ORDERS IN CASE NO. B077109 AND THE INSTANT CASE ISSUED BY JUSTICE PAUL TURNER ACTING ALONE VIOLATED THE CONSTITUTION OF THE STATE OF CALIFORNIA ARTICLE VI.

SECTION 3

California Constitution Article VI, Section 3 provides:

> "The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justi ces. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges at the argument is necessary for a judgment."

Reviews of Appendixes A and F , it is clearly shown the orders issued by Justice Turner, acting alone, on November 24, 1993 in case no. B077109 and the instant case were in violation of the California Constitution, Article VI. Section 3, because the Petition in case no. B080053 was filed on November 23, 1993 at about 3:30 p.m., the orders in case no. B077109 were issued on November 24, 1993 and was signed by Justice Paul Turner alone and the orders in the instant case issued on

June 16, 1994 were also signed by Justice

Paul Turner alone.

II. THE ORDERS IN CASE NO. B077109 ISSUED BY JUSTICE PAUL TURNER ACTING ALONE VIOLATED THE CONSTITUTIONS OF THE UNITED STATES AND THE STATE OF CALIFORNIA

In Elsenberg, Horvitz & Weiner, California Practice Guide - Civil Appeal and Writ (The Rutter Group 1994) states:

A. 1. (11:2) Assignment to Division or Panel: In all of the courts of appeal, cases are assigned on a rotating basis to a division (If the court has multiple divisions) . . . . The Second Appellate District in Los Angeles assigns cases when the appellate record is completed or a motion is filed.

A.1.a. (11:3) Composition of panel: The California Constitution requires a court of appeal to conduct itself as a three-judge court; and also provides that at least two of the justices must concur in the court's decision.

A.1.a.(1) (11:3.1) Minimum two-justice concurrence for binding decisions: Thus, regardless of the number of justices assigned to a particular district or division, each case must be heard by a panel of three, and any determination of the merits that is to be bind the parties must have the agreement of two justices (See In re Christopher A. (1991)

226 CA3d 1154, 1167, 277 CR 302, 306) - order denying motion to dismiss made by single justice not "law of the case" so as to preclude renewal of motion in current appeal before full panel: Estate of Crabtree (1992) 4 CA4th 1119, 1123, 6 CR2d 224, 225, fn. 2; Paradise Hills Associates v. Procel (1991) 235 CA3d 1528, 1537, 1 CR2d 514, 518 - Order denying writ petition signed by single justice not "law of the case" so as to determine petitioner's rights on subsequent appeal from preliminary injunc -tion)

A.1.b. Method of assignment:

(1) (11:4) Usually at random: Assignment of cases to a division or panel generally occurs at random.

In reviewing of the Orders issued by Justice Turner acting alone in case no. B077109 and in the instant case, it is clear -ly shown that the orders were in violation of Due Process of law, because Justice Turner failed to give adequate notice to Petitioner Shong-Ching Tong and an opportunity to be heard prior to his unlawful orders declaring Petitioner Shong-Ching Tong as a "Vexatious Litigant". Further, the Orders issued by

Justice Turner, acting alone, also failed to state on what basis he found Petitioner Shong-Ching Tong to be a "Vexatious Litigant".

III. AN "APPEAL" IS NOT A "NEW LITIGATION"

The definition of "Appeal" as stated in Black Law Dictionary, 6th Ed., is:

> "Report to a superior court (or appellate court) to review the decision of an inferior court."

In case no. B077109 and in the instant case, Justice Turner has failed to cite any authority supporting his assertion that an APPEAL is a new litigation.

Since an Appeal is not a new litigation, the California Legislature had no such intent, and no other Division of the Second Appellate District followed his erroneous conclusions of law, Justice Turner has abused his judicial power in dismissing Petitioner Shong-Ching Tong's appeal in case no. B077109 and in the instant case.

IV. THE PRESIDING JUSTICE OF DIVISION 5 OF CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, ALONE HAS NO POWER TO DISMISS PETITIONER SHONG-CHING TONG'S APPEAL

In case no. B077109, Justices Turner and Perez, based on Justice Turner's erroneous conclusions of law and no appeal brief filed, dismissed Petitioner Shong-Ching Tong's appeal in their Slip Opinion.

In the instant case, Justice Turner acting alone dismissed Petitioner Shong-Ching Tong's appeal.

Pursuant to Constitution of the State of California, Article VI, Section 3, any decision of the appellate court must have at least two justices to consent.

In the instant case, Justice Turner has abused his judicial power by himself alone dismissed Petitioner Shong-Ching Tong's appeal.

V. THE PRESIDING JUSTICE OF DIVISION 5 OF CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, ABUSED HIS JUDICIAL

POWER BY IGNORING PETITIONERS' APPLICATION FOR PERMISSION TO EXTEND TIME TO FILE APPELLANTS' OPENING BRIEF

Pursuant to California Rules of Court, Rules 45 (b) & (c) and 45.5, Justice Turner has no reason to ignore Petitioners' "Applica -tion for Permission to extend time for filing the Appellants' Opening Brief".

The Order by Justice Turner directing the Clerk's Office to issue Rule 17 (a) Notice to Petitioner Yei-Hwei Tong is a clear example of his abuse of his judicial power.

In Elsenberg Horvitz & Weiner, ibid. p. 5-21, paragraph 4.a.(1) (5:86) states "Applications for an extension of time are considered routine under CRC 43, although routine applications can normally be presented **ex parte**.

VI. THE PRESIDING JUSTICE OF DIVISION 5 OF CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, ABUSED HIS JUDICIAL

POWER TO DENY PETITIONERS' RECUSAL MOTIONS

In Justice Turner's Orders of June 16 and July 19, 1994, he stated that California Code of Civil Procedure (CCP) Sections 391 et seq. apply to an appeal.

If CCP Sections 391 et seq. apply to an appeal, then, CCP Sections 170 et seq. should also apply to him so that an appellant can disqualify an appellate Justice.

Justice Turner has intentionally abused his judicial power since 1983 and has been sued by Pro Se Litigants in many cases. The most notable cases were:

1) Golterio V. Paul Turner (83-564)

2) Hodge v. Paul Turner (83-5598)

3) McIntosh v. Paul Turner (86-18317).

In United Farm Workers of America v. Superior Court (1985) 170 Cal.App.3d 97, 103-104, 216 Cal.Rptr. 4, the court held that:

"Disqualification is mandated if a reasonable person would entertain doubts concerning the judge's impartiality."

In Adoption of Richardson (1967) 251 Cal.App.2d 222, 232, 59 Cal.Rptr. 323, the court held that:

"A judge who has a fixed opinion as to some characteristic of a party such that the judge is prevented from deciding the case according to the evidence is disqualified."

California Rules of Court, Appendix, Div II, Code of Judicial Conduct, Cannon 3(C)(1)(a) all have stated that A judge should disqualify himself or herself in a proceeding in which his or her disqualification is required by law, or his or her impartiality might reasonably be questioned.

To support Petitioners' motions to disqualify Justice Turner, Petitioners submitted evidence in case nos. B077108, B077109, and B080053. All these facts and evidence were ignored by Justice Turner.

Petitioners believe that Justice Turner is biased and prejudiced against Petitioners. Justice Turner should have disqualified himself from the instant appeal.

VII. THE PRESIDING JUSTICE OF DIVISION 5 OF CALIFORNIA COURT OF APPEAL, SECOND APPELLATE DISTRICT, ABUSED HIS JUDICIAL POWER TO DENY PETITIONERS' REQUEST TO ASK THE CALIFORNIA SUPREME COURT TO TRANSFER THE INSTANT APPEAL TO ANOTHER DIVISION OR ANOTHER DUSTRICT

As Exhibits contained in "Appellants' Request that this court should ask the California Supreme Court to transfer the appeal to another District or another Division, etc." show, Justice Turner has unconstitution -ally, unlawfully, and improperly dismissed Petitioner Shong-Ching Tong's appeal in case no. B077109 and in the instant case.

Now, Justice Turner, acting alone, has dismissed Petitioner Shong-Ching Tong's appeal while he knew his previous orders were in violation of Constitutions of the United

States and the State of California.

Justice Turner's denial of Petitioners' Request to ask the California Supreme Court to transfer the instant appeal to another District or another Division is further example of his abuse of judicial power.

CONCLUSION

In light of the foregoing facts and evidence, this case is appropriate for review by this Court. It involves significant issues that have never been squarely addressed by this Court. A decision by this Court is also necessary to establish uniformity on issues raised in the instant case. It is respectful ly requested that this Court will issue its Petition for Certiorari.

DATED: December 12, 1994

Respectfully submitted,

Shong-Ching Tong Yei-Hwei Tong

Shong-Ching Tong, Yei-Hwei Tong
Petitioners Pro Se

IN THE COURT OF APPEAL OF
THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

SHONG-CHING TONG et al., Plaintiffs and Appellants.	B 083416 (Super. Ct. No. GC 009783)
vs.	Court of Appeal - Second Dist
ROCHELLE D. STANTON, Defendant and Respondent.	FILED JUL 19, 1994 Joseph Lane, Clerk

ORDERS: (1) DENYING RECUSAL MOTION: (2) DENYING MOTION TO TRANSFER APPEAL; (3) DISMISSING APPEAL OF SHONG-CHING TONG: (4) AWARDING COSTS; AND (5) DIRECTING ISSUANCE OF RULE 17(A) NOTICE

The motion of plaintiff, Shong-Ching Tong, to disqualify is denied. The court is not biased against plaintiff. all of the court's rulings have been in compliance with its duty to judiciously and dispassionately enforce the vexatious litigant law as it is constitutionally and statutorily required to do so (Say & Say, Inc. v. Ebershoff

(1993) 20 Cal.App.4th 1759, 1764-1765, fn. 8.) The motion which seeks to have the Chief Justice order transfer of this appeal to another division or district is denied.

The court has considered plaintiff's responses to the order to show cause of June 16, 1994. The court finds the present appeal has no merit and has been for purposes of harassment. Pursuant to Code of Civil Procedure Section 391.7, the appropriate disposition is to dismiss the appeal. The appeal of plaintiff, Shong-Ching Tong, is dismissed. Defendant, Rochelle Stanton, shall recover her costs incurred in connection with this appeal from plaintiff, Shong-Ching Tong.

As to plaintiff, Yei-Hwei Tong, the notice pursuant to rule 17(a) of the California Rules of Court is to issue.

/s/ Paul Turner

PAUL TURNER, PRESIDING JUSTICE

Second Appellate District. Division Five
No. B083416
S041268

IN THE SUPREME COURT OF
THE STATE OF CALIFORNIA

IN BANK

SHONG-CHING TONG Et Al., Appellants

v.

ROCHELLE D. STANTON, Respondent

Petition for review DENIED.

SUPREME COURT
FILED
SEP 14, 1994

Robert Wandruff
Clerk

_____
DEPUTY

MOSK

_____
Acting Chief Justice

IN THE COURT OF APPEAL OF
THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

SHONG-CHING TONG et al..	)	B 083416
	)	
Plaintiffs and Appellants.	)	(Super. Ct. No. GC 009783)
	)	
vs.	)	Court of Appeal - Second Dist
	)	FILED
ROCHELLE D. STANTON.	)	JUN 16, 1994
	)	
Defendant and Respondent.	)	Joseph Lane, Clerk
	)	

ORDERS: (1) DIRECTING PLAINTIFS, SHONG-CHING TONG TO SHOW THE PRESENT LITIGATION HAS MERIT: AND, (2) STAYING ALL PROCEEDINGS

It has come to the attention of this court, Shong-Ching Tong, has been found to be a vexatious litigant within the meaning of Code of Civil Procedure[1] section 391 et seq. Further, it has come to the attention of this court that plaintiff is subject to a prefiling order pursuant to section 391.7, subdivision (a). This court has judicially

noticed the Court of Appeal File in the case of Tong v. Superior Court, case no. B080053. Pursuant to section 391.7, subdivision (c), all proceedings are stayed. Plaintiff, Shong-Ching Tong, shall have 10 days within which to secure permission to continue with the present litigation pursuant to section 391.7, subdivision (b). (Andrisani v. Hoodack (1992) 9 Cal.App.4th 279, 280-281).

/S/ Paul Turner

Paul Turner
Presiding Justice

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1 All future statutory references are to the Code of Civil Procedure

California Code of Civil Procedure section 391.7. Prefiling order prohibiting the filing of new litigation; contempt; conditions

(a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding judge of the court where the litigation is proposed to be filed. Disobedience of such an order by a vexatious litigant may be punished as a contempt of court.

(b) The presiding judge shall permit the filing of such litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay. The presiding judge may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants as provided in Section 391.3.

(c) The clerk shall not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding judge permitting the filing. If the clerk mistakenly files the litigation without such an order, any party may file with the clerk and serve on the plaintiff and other parties a notice stating that the plaintiff is a vexatious litigant subject to a

prefiling order as set forth in subdivi
-sion (a). The filing of such a notice shall automatically stay the litigation. The litigation shall be automatically dismissed unless the plaintiff within 10 days of the filing of such notice obtains an order from the presiding judge permitting the filing of the litigation as set forth in subdivision (b). If the presiding judge issues an order permitting the filing, the stay of the litigation shall remain in effect, and the defendants need not plead, until 10 days after the defendants are served with a copy of any such order.

(d) The clerk of the court shall provide the Judicial Council a copy of any prefiling orders issued pursuant to subdivision (a). The Judicial Council shall maintain a record of vexatious litigants subject to such prefiling orders and shall annually disseminate a list of such persons to the clerks of the courts of of this state.

JON B. ELSENBERG, ELLIS J. HORVITZ & WIENER

CALIFORNIA PRACTICE GUIDE

CIVIL APPEALS AND WRITS

(THE RUTTER GROUP, 1994)

A. 1. (11:2) Assignment to Division or Panel: In all of the courts of appeal, cases are assigned on a rotating basis to a division (If the court has multiple divisions) . . . . The Second Appellate District in Los Angeles assigns cases when the appellate record is completed or a motion is filed.

A.1.a. (11:3) Composition of panel: The California Constitution requires a court of appeal to conduct itself as a three-judge court; and also provides that at least two of the justices must concur in the court's decision.

A.1.a.(1) (11:3.1) Minimum two-justice concurrence for binding decisions: Thus, regardless of the number of justices assigned to a particular district or division, each case must be heard by a panel of three, and any determination of the merits that is to be bind the parties must have the agreement of two justices (See in re Christopher A. (1991) 226 CA3d 1154, 1167, 277 CR 302, 306) - order denying motion to dismiss made by single justice not "law of the case" so as to preclude renewal of motion in current appeal before full panel; Estate of Crabtree (1992) 4 CA4th 1119, 1123.

6 CR2d 224, 225, fn. 2; Paradise Hills Associates v. Procel (1991) 235 CA3d 1528, 1537, 1 CR2d 514, 518 - Order denying writ petition signed by single justice not "law of the case" so as to determine petitioner's rights on subsequent appeal from preliminary injunc-tion)

A.1.b. Method of assignment:

(1) (11:4) Usually at random: Assignment of cases to a division or panel generally occurs at random.

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 5 DATE: 11/24/93

Pillsbury Madison & Sutro
Tracy B. Gray
725 South Figueroa Street
Suite 1200
Los Angeles, CA 90017 2513

RE: Tong, Shong-Ching
VS.
Superior Court of Los Angeles
Isuzu Motors of America Inc.
2 Civil B080053
Los Angeles No. VC006762

THE COURT:

The Petition for writ of Mandate

Prohibition is denied.

UNITED STATES CONSTITUTION. AMENDMENT I:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

UNITED STATES CONSTITUTION. AMENDMENT V:

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases aris-ing in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopar-dy of life or limb; nor shall be com-pelled in any criminal case to be a witness against himself, nor be depriv-ed of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

UNITED STATES CONSTITUTION, Amend. XIV, Sec. I:

> All persons born or naturalized in the United States, and subject to the juris-diction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of

the United States; nor shall any State deprive any person of life, liberty; or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

CALIFORNIA CONSTITUTION. ARTICLE I, SEC. 3

CALIFORNIA CONSTITUTION. ARTICLE I, SEC. 7

CALIFORNIA CONSTITUTION. ARTICLE VI, SEC. 3

The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justi ces. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges at the argument is necessary for a judg -ment.

IN THE COURT OF APPEAL OF
THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

SHONG-CHING TONG,	)	B 077109
	)	
Plaintiff and Appellant,	)	(Super. Ct. No. KC 004452)
	)	
vs.	)	Court of Appeal - Second Dist
	)	FILED
ASSURED THRIFT & LOAN,	)	NOV 24, 1993
	)	
Defendant and Respondent.	)	Joseph Lane, Clerk
	)	

ORDERS: (1) DIRECTING PLAINTIF. SHONG-CHING TONG TO SHOW THE PRESENT LITIGATION HAS MERIT; AND, (2) STAYING ALL PROCEEDINGS

It has come to the attention of this court, Shong-Ching Tong, has been found to be a vexatious litigant within the meaning of Code of Civil Procedure section 391 et seq.[1] Further, it has come to the attention of this court that plaintiff is subject to a prefiling order pursuant to section 391.7, subdivision (a). This court has judicially

noticed the Court of Appeal File in the case of Tong v. Superior Court, case no. B080053. Pursuant to section 391.7, subdivision (c), all proceedings are stayed. Plaintiff, Shong-Ching Tong, shall have 10 days within which to secure permission to continue with the present litigation pursuant to section 391.7, subdivision (b). (Andrisani v. Hoodack (1992) 9 Cal.App.4th 279, 280-281).

/S/ Paul Turner

Paul Turner
Presiding Justice

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1 All future statutory references are to the Code of Civil Procedure